IN THE SUPERIOR COURT OF THE STATE OF DELAWARE IN AND FOR KENT COUNTY

STATE OF DELAWARE,)
) ID. Nos.: 1203003795
v.) 1304023113
)
JAMES O. JENNINGS.)

ORDER

This 11th day of August, 2014, upon consideration of the Defendant's Motion for Reduction of Sentence and the record of this case, it appears that:

- 1. The Defendant, James O. Jennings, was convicted of two counts of drug dealing on June 26, 2013 in criminal action numbers IK12-04-0123 and K13-05-0147I. In IK12-04-0123 the defendant was sentenced to 15 years at supervision level 5 with credit for 22 days previously served, suspended after 2 years, 6 months for supervision level 4 Crest Program. In K-13-05-0147I the defendant was sentenced to 8 years at supervision level 5, suspended after 2 years, 6 months, followed by level 3. In accordance with Title 11, Section 3901(d) of the Delaware Code, the level 5 sentences of confinement were consecutive.
- 2. Section 3901(d) has recently been amended, with an effective date of July 9, 2014, to read in pertinent part as follows: "The court shall direct whether the sentence of confinement of any criminal defendant by any court of this State shall be made to run concurrently or consecutively with any other sentence of confinement imposed on such criminal defendant."

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3. The Defendant contends that the amended language of Section 3901(d)

should be applied retroactively to his sentences, and he requests that the Court direct

that the level 5 sentences of confinement in the two above-mentioned criminal action

numbers be served concurrently.

4. Pursuant to Delaware case law, there is a presumption that a statute will

not be applied retroactively unless the statute clearly contains express language

indicating that the legislature intended a retroactive application.¹

5. The Court finds that Section 3901(d), as amended, was not intended by

the Delaware General Assembly to have a retroactive effect. Therefore, the

Defendant's motion is denied.

IT IS SO ORDERED.

President Judge

oc: Prothonotary

cc: Nicole S. Hartman

Mr. James O. Jennings

File

¹ State v. Ismaaeel, 840 A.2d 644, 654 (Del. Super. 2004) (citing State v. Nixon, 46 A.2d 874, 875 (Del.Gen.Sess.1946)).